

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 06-40186

OLITA M. WILLIAMS,

Chapter 13

Debtor.

Judge Thomas J. Tucker

ORDER DENYING DEBTOR'S MOTION TO CONTINUE THE AUTOMATIC STAY

Debtor filed her voluntary petition for relief under Chapter 13 on January 6, 2006. On January 17, 2006, Debtor filed a "Motion to Continue the Automatic Stay" (Docket # 8). Debtor served her motion on the Chapter 13 Trustee and all creditors on January 18, 2006. (Certificate of Service, Docket # 9.) But Debtor took no further action until February 10, 2006, when her counsel called the Court's courtroom deputy clerk to inquire about a hearing date. The courtroom deputy did not schedule a hearing date because the stay had already expired.

Under 11 U.S.C. § 362(c)(3)(B),¹ in order for the Court to extend the stay, a hearing on a motion to extend the automatic stay must be completed before the stay terminates under § 362(c)(3)(A), and, therefore, within 30 days of the filing of the case. Because of the statute's 30-day hearing deadline, L.B.R. 4001-6(a) (E.D.M.) requires that a motion to extend the stay be filed and served within 7 days after the bankruptcy petition is filed, and that:

Immediately after filing the motion [to extend the stay], the movant shall obtain a hearing date from the judge's courtroom deputy clerk, who will cause notice of the hearing to be served on parties in interest. Any party in interest may be heard at the hearing. Written objections are permitted but not required.

In this case, Debtor did not contact the judge's courtroom deputy clerk to obtain a hearing

¹ Citations to the Bankruptcy Code in this Order are to the Code as amended by the "Bankruptcy Abuse Prevention and Consumer Protection Act of 2005."

date until after before the stay terminated on February 5, 2006. By that time, it was obviously impossible to schedule and complete a hearing on Debtor's motion to extend the stay within the required 30-day period, so the motion must be denied.

Accordingly,

IT IS ORDERED that "Debtor's "Motion For Continuation of the Automatic Stay Under 11 U.S.C. § 362(c)(3)(B)"(Docket # 8) is DENIED.

Date: February 14, 2006

/s/ Thomas J. Tucker
Thomas J. Tucker
United States Bankruptcy Judge

cc: James P. Frego, II
Tammy L. Terry, Trustee